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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,886	04/15/2005	Giuseppe De' Longhi	23280	6116
535 K.F. ROSS P.C. 5683 RIVERDALE AVENUE SUITE 203 BOX 900 BRONX, NY 10471-0900	7590 07/20/2009			
EXAMINER				
TEATERS, LINDSEY C				
ART UNIT		PAPER NUMBER		
3742				
MAIL DATE		DELIVERY MODE		
07/20/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/531,886

Applicant(s)

DE' LONGHI, GIUSEPPE

Examiner

LINDSEY C. TEATERS

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The amendment filed 04/03/2009 has been entered. Claims 12-20 remain pending in the application.

Claim Objections

2. Claim 18 is objected to because of the following informalities: "the open position" in line 2 should be --the closed position--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. No particular claim dependency has been given in claim 20, so it is unknown what previous claim limitations are included or excluded by the claim language.

Response to Arguments

6. Applicant's arguments with respect to claims 12-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taniguchi (US 4,850,540) in view of Rigney 9US 2001/0054358 A), cited by applicant.

Re claims 12-20:

Taniguchi teaches a drain assembly comprising a housing (1) connected to a vessel (col. 2, lines 62-64) forming a valve seat and formed with a passage (1c) opening into the vessel and into the seat (col. 2, lines 62-64), a valve body (2) formed with a passage (2a) and pivotal in the seat between an open position (figure 1) with the passage of the valve body aligned with the passage of the housing and a closed position (figure 3) with the passage of the valve body not aligned with the passage of the housing, a rigid tube (4) fixed to and pivotal with the valve body and formed with a passage opening into the passage of the valve body (see figure 4), the body being pivotal in the housing such that in the closed position the tube extends upward from the housing and in the open position the tube extends downward from the housing, wherein the housing includes a connecting tube (1b) extending between the seat and the vessel, the connecting tube extends downward from the vessel to the seat (depending on orientation of connection to vessel, it is a relative limitation, and does not patentably distinguish), the housing has an inner

surface (inside 1) on which the passage of the housing opens and the valve body fits complementarily to the inner surface, the housing fits around the valve body and is formed with a slot (figure 4) through which the tube projects from the valve body out of the housing, the slot has opposite ends (where 1a meets housing 1 on either end) against which the tube bears in the open and closed positions, in the closed position the tube extends vertically upward from the housing (figure 3), and the tube is unitary with the valve body (one piece, see figures).

Taniguchi fails to teach that the vessel is a food cooker holding a liquid in which food is cooked, and wherein the cooker is a fryer and the liquid is oil. Rigney, however, teaches a fryer (20, paragraph [0010]) holding oil (paragraph [0011]) with a drain (26) from which the oil is discharged.

In view of Rigney's teachings, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize the drain assembly, taught by Taniguchi, in conjunction with a food cooker. The device is a simple valve construction used to block, regulate, or convey fluid flow there through. This type of assembly is useful in any situation where fluid should be drained from any type of vessel, regardless of its intended use. Also, the idea of regulating flow is well known in this art and many others not only through the use of this type of valve but also with butterfly valves, etc.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSEY C. TEATERS whose telephone number is 571-270-5913. The examiner can normally be reached on Mon-Thur 8:30am-6:00pm :: alternating Fri 8:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3742

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LINDSEY C TEATERS/
Examiner, Art Unit 3742

07/06/2009
/TU B HOANG/
Supervisory Patent Examiner, Art Unit 3742